

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4140 of 1984

Date of decision: 31-7-1996

For Approval and Signature

The Hon'ble Mr. Justice S. K. KESHOTE

1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

KISHOREBHAI M JOSHI

Versus

SECURITY OFFICER

G S R T C

Appearance:

Mr. D.M. THAKKAR for Petitioner

None present for the respondent.

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 31/07/96

ORAL JUDGEMENT

Heard the learned counsel for the petitioner.

Challenge is made by the petitioner, a clerk of

the Gujarat State Road Transport Corporation, the order placing him under suspension in contemplation of departmental inquiry as well as initiation of disciplinary proceedings against him. The challenge is made on the ground that on the same charges the respondents have proceeded against the petitioner by criminal prosecution which is pending and hence the departmental inquiry and disciplinary proceedings should not have been initiated and he should not have been placed under suspension.

2. The counsel for the petitioner makes a statement before this court that the criminal case, which has been filed against the petitioner has been concluded. Copy of the judgment in the criminal case has not been produced on record. The contention of the learned counsel for the petitioner is that in view of the fact that the petitioner has been acquitted in the criminal case, on the same charge the respondents have no authority to initiate departmental proceedings against him. I do not find any substance in this contention. Whether the criminal case and the departmental proceedings are on the same charge or not is a question to be decided by the disciplinary authority.

3. The petitioner has not filed the necessary documents before this Court to show that the charge sheet in the criminal case in which he is said to have been acquitted and in the departmental proceedings are on the same allegations. It is for the disciplinary authority to decide whether after acquittal of the petitioner in criminal case they can proceed against the petitioner in departmental proceedings or not. It is open to the petitioner to raise this objection before the disciplinary authority and not before this court. In case such objection is raised by the petitioner before the disciplinary authority, and necessary documents are produced, then the disciplinary authority shall consider the same and pass appropriate order in accordance with law. This opportunity has not been availed by the petitioner so far as the proceedings were stayed by the interim orders of this court.

4. Taking into consideration the totality of the facts of the case this special civil application does not survive as the criminal proceedings instituted against the petitioner have come to an end. Whatever grievance the petitioner has against the departmental proceedings, he may raise the same before the appropriate departmental authority which will decide the same in accordance with law. The writ petition stands disposed of accordingly.

Rule discharged. Interim relief granted earlier stands
vacated.

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